

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Appl. No.: 10/528,524

Applicant: Koch et al

Filed: March 18, 2005

TC/A.U.: 3754

Examiner: Melvin Cartagena

Docket No.: 1299US2

Commissioner for Patents

P.O. Box 1450

Alexandria VA 22313-1450

APPELLANT'S BRIEF UNDER 37 CFR 1.192 A

ATTENTION: Board of Patent Appeals and Interferences

I REAL PARTY IN INTEREST

The real part in interest in this case is Graco Minnesota Inc., assignee of the above-identified application.

II RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

III STATUS OF CLAIMS

1. Claims 1-8 are rejected and the rejection of those claims was appealed in the notice of March 18, 2009.

IV STATUS OF AMENDMENTS

The amendment filed August 13, 2008 has been entered.

V SUMMARY OF THE CLAIMED SUBJECT MATTER

The dispenser 10 is comprised of a flow meter 1 in conjunction with a pump 2. In the preferred embodiment, these two elements are combined wherein pump 2 is of the gerotor type and the flow meter 1 is formed by locating a Hall Effect sensor 2a in the gerotor housing so as to count the pulses generated by movement of the gerotor teeth due to fluid flow therethrough.

A DC motor 3 drives pump 2 through a gearbox 12 to reduce the rpm level. Dispenser 10 is designed for mounting on a bulk fluid container 4 and has a suction tube 5 depending downwardly into container 4. A portable base 6 may be provided.

Dispensing hose 7 leads to dispense valve 8 which has a display 8a thereon to indicate the amount dispensed. Dispense valve 8 is provided with a non-drip nozzle 14 which requires a pressure of about 20 psi in order to open and provide fluid flow. Dispense valve 8 also has a trigger 8b which is an electrical switch rather than a mechanical valve and communicates with control 16 either via a wireless link or through one or more wires 7A incorporated into hose 7. A hose reel 11 or hose rack (for winding up hose) is desirably incorporated into the unit 10. Flow meter 1 transmits volume dispense information to display 8a either via a wireless link or through one or more wires 7A incorporated into hose 7.

Claim 1. A unitary dispenser 10 for dispensing lubricants and the like from and mounting on a bulk container 4, said dispenser 10 comprising:

a motor 3;

a pump 2 mounted on said bulk container 4 and having a pump housing (page 3, line 5), said pump 2 being driven by said motor 3;

a flow meter 1 located in said housing (page 3, line 5) and incorporated into and part of said pump 2;

a suction tube 5 depending into said bulk container 4 from said pump 2;

a dispense valve 8; and

a dispense hose 7 connecting said pump 2 and said dispense valve 8.

Claim 2. The dispenser of claim 1 further comprising a display 8a on said dispense valve 8 for the amount of fluid dispensed, said display being in communication with said flow meter (page 3, lines 16-18).

Claim 3. The dispenser of claim 1 further comprising a hose storage device 11.

Claim 4. The dispenser of claim 3 wherein said hose storage device is a hose reel 11.

Claim 5. The dispenser of claim 1 wherein said dispense valve 8 comprises a valve requiring a predetermined non-negligible non-zero fluid pressure to open (page 3, lines 10-12).

Claim 6. The dispenser of claim 1 wherein said dispense valve 8 communicates with said flow meter 1 through said dispense hose 7 (page 3, lines 16-18).

Claim 7. The dispenser of claim 1 wherein said dispense valve 8 communicates with said flow meter through a wireless link (page 3, lines 12-15).

Claim 8. The dispenser of claim 1 wherein said pump is a gerotor (page 3, lines 2-6).

VI GROUNDS OF REJECTION TO BE REVIEWED

1. Whether claims 1, 5 and 6 are unpatentable under 35 U.S.C. §102(b) over Langley et al.
2. Whether claim 7 is unpatentable under 35 U.S.C. §103(a) over Langley in view of Few.
3. Whether claim 8 is unpatentable under 35 U.S.C. §103(a) over Langley.

VII ARGUMENTS

REJECTION UNDER 35 USC 102(b)

Each claim forms a single claim group.

Claims 1, 5 and 6 stand rejected under 35 U.S.C. §102(b) as being anticipated by Langley et al. Langley is no more than the typical prior art which requires a system to be engineered from a multitude of discrete parts and is not the sort of plug and play system contemplated and claimed. It is not mounted on a drum as claimed or suited for mounting on a drum and there is no showing or suggestion of how to do so. It also shows pump and meter separated by elements 18 and 19 rather than the flow meter being located “in the pump housing” as claimed by Applicants. Langley also does not show a unitary device as claimed but rather separate pieces plumbed together.

As to claim 5, while Langley may show a check valve 27, it does not show or describe such operating at a “predetermined non-negligible, non-zero pressure” as described and claimed by Applicants. While any check valve may require some pressure to open, a non spring-loaded check will open at trivially small pressures. The claim language is intended to complement the preferred embodiment which requires 20 psi to open.

Similarly, there is no disclosure of the limitation of claim 6 wherein the dispense valve communicates with the flow meter through said dispense hose. While both valve and flow meter may be present, there is no discussion or suggestion of communication between them.

Claims 1-4 stand rejected under 35 U.S.C. §102(b) as being anticipated by Few '357. Few again is no more than the typical prior art which requires a system to be engineered from a multitude of discrete parts and is not the sort of plug and play system contemplated and claimed. It is not suited for mounting on a drum and there is no suggestion to do so. It also does not have the meter and pump as part of a single unit.

Few further shows the dispense valve as part of the meter and does not show the dispense valve connected to the meter/pump by a hose as described and claimed by Applicants nor does it show a hose storage device or hose reel as part of the dispenser (Few shows it as a separate element) as set forth in claims 3 and 4.

Accordingly, it is also respectfully submitted that the rejection under 35 USC 102(b) of claims 1, 5 and 6 is in error for the reasons set forth above and should be reversed.

REJECTION UNDER 35 USC 103(a)

Claim 7 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Langley in view of Few '364. The Office Action submitted that Langley shows all of the claimed features except the use of wireless communication between the flow meter and the dispensing valve.

In addition of the limitations lacking in Langley as set forth above with respect to claim 1, it is submitted that even if Few were combined with Langley (notwithstanding the lack of any reason to do so other than hindsight), the claimed invention would not result. The remote pendant cited is not part of the dispense valve. There is no suggestion as to how or why one skilled in the art might incorporate such into Langley which shows no display or the like on dispense valve 24.

Claim 8 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Langley with the Examiner asserting that the type of pump claimed presents no novel or unexpected result. It is submitted that the gerotor type pump easily enables the combining of the pump and flow meter functions to enable the dispenser to be produced at greatly reduced cost.

Accordingly, it is also respectfully submitted that the rejection under 35 USC 103(a) of claims 7 and 8 is in error for the reasons set forth above and should be reversed.

VIII APPENDIX OF CLAIMS

Claim 1. A unitary dispenser for dispensing lubricants and the like from and mounting on a bulk container, said dispenser comprising:

a motor;

a pump mounted on said bulk container and having a pump housing, said pump being driven by said motor ;

a flow meter located in said housing and incorporated into and part of said pump;

a suction tube depending into said bulk container from said pump;

a dispense valve; and

a dispense hose connecting said pump and said dispense valve.

Claim 2. The dispenser of claim further comprising a display on said dispense valve for the amount of fluid dispensed, said display being in communication with said flow meter.

Claim 3. The dispenser of claim further comprising a hose storage device.

Claim 4. The dispenser of claim 3 wherein said hose storage device is a hose reel.

Claim 5. The dispenser of claim 1 wherein said dispense valve comprises a valve requiring a predetermined non-negligible non-zero fluid pressure to open.

Claim 6. The dispenser of claim 1 wherein said dispense valve communicates with said flow meter through said dispense hose.

Claim 7. The dispenser of claim 1 wherein said dispense valve communicates with said flow meter through a wireless link.

Claim 8. The dispenser of claim 1 wherein said pump is a gerotor.

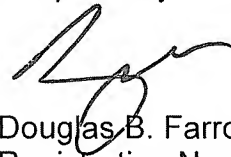
IX EVIDENCE APPENDIX

NONE

X RELATED PROCEEDINGS APPENDIX

NONE

Respectfully submitted,



Douglas B. Farrow
Registration No. 28582
Graco Inc.
PO Box 1441
Minneapolis, MN 55440
(612) 623-6769
pto@graco.com